ALA American Library Association

Before the
Federal Communications Commission
Washington, DC 20054

In the Matter of:

Delete, Delete, Delete: Seeking public input on identifying FCC rules for the purpose of alleviating unnecessary regulatory burdens	)))	**GN Docket No. 25-133**

Addressing Regulatory Burdens of the E-Rate Program

Suggestions Submitted by the American Library Association

The American Library Association (ALA)[1] submits the suggestions below in relation to the above Notice.[2] Our submission is made with the intent to assist the Commission in its efforts to streamline the Universal Service E-Rate program. We note that the complexity of the program's application and follow-up processes have been issues for both applicants and service providers since the beginning of the program in 1997. Unfortunately, this has resulted in many libraries not applying. For example, in a 2023 report from the Public Library Association, 45.2% of libraries said they didn't apply for the E-Rate because "it was too complicated or time consuming."[3]

As stated in footnote #2, many of the suggestions we present below are taken from comments ALA and other parties made to the Commission's *Further Notice of Proposed Rulemaking* (*FNPRM*) released July

[1] The American Library Association (ALA) is the foremost national organization providing resources to inspire library and information professionals to transform their communities through essential programs and services. For more than 140 years, ALA has been the trusted voice for academic, public, school, government, and special libraries, advocating for the profession and the library's role in enhancing learning and ensuring access to information for all. ALA represents the nation's 123,000 libraries, which includes over 17,000 public libraries.

[2] We note that this Notice was not adopted by a vote of the Commission. Therefore, any actions taken in response to some of the comments filed must be adopted pursuant to FCC rules and the Administrative Procedure Act. However, we also note that many of the ALA comments and the E-Rate comments submitted by other parties in this *Delete Notice* were suggestions previously filed as part of the Commission's *Further Notice of Proposed Rulemaking* (CC Docket No. 02-6), released July 21, 2023. When this occurs, the Commission could release an Order without further action. And some comments involve USAC procedures and thus do not need any public notice of changes.

[3] *2023 Public Library Technology Survey: Summary Report*. Table 24, p. 30. Public Library Association (https://www.ala.org/sites/default/files/2024-07/PLA_Tech_Survey_Report_2024.pdf).

21, 2023.[4] Many of the comments filed as part of this *FNPRM* include good, common sense suggestions on how to streamline and reduce the complexity of the E-Rate program. We encourage Commission staff to closely review these comments. (Note: As of this date, the Commission has not acted on its own suggestions made in the *FNPRM* or the suggestions made by other commenting parties.)

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ALA Suggestions for E-Rate Regulatory Changes

Current rule: 47 CFR § 54.503. Competitive bidding requirements. This section of the regulations requires schools and libraries to adhere to specific FCC bid and bid evaluation requirements when requesting the purchase of E-Rate eligible services or equipment.

- *Recommended change:* Remove all FCC bid requirements and use the applicant's current procurement requirements when bidding for E-Rate eligible services or equipment.
- *Rationale for change:* Adhering to the voluminous FCC bid requirements is a major reason why applicants are denied funding.[5] It is very important to realize that our libraries and schools have used their own procurement processes for decades to purchase non-E-Rate goods and services, and these purchases far exceed the funds they receive from the E-Rate program. This is clearly illustrated by a blog post from John Harrington at Funds for Learning who stated, "The E-rate program represents roughly one half of one percent of the annual K-12 spending….".[6] If local regulations are acceptable for all other purchases, they should suffice for purchasing E-Rate eligible services, too. As a safeguard and to ensure local purchasing rules are followed, schools and libraries are subject to regular audits following procedures defined by the Governmental Accounting Standards Board (GASB).

[4] *Report and Order and Further Notice of Proposed Rulemaking (FNPRM)*, CC Docket No. 02-6. Released July 21, 2023.

[5] CFR 54.503(b) states that the Commission's "competitive bid requirements apply in addition to state and local competitive bid requirements and are not intended to preempt such state or local requirements." Yet, when there is a conflict between state or local bid requirements and the FCC's requirements, the FCC's requirements do take precedent which contradicts the CFR language. Applicants have been denied because of these confusing bid requirements.

[6] *FCC Aims to Nationalize K-12 Purchasing.* John Harrington, Funds for Learning blog post, January 14, 2022 (https://www.fundsforlearning.com/news/2022/01/fcc-aims-to-nationalize-k-12-purchasing/).

Current rule: 47 CFR § 54.503. Competitive bidding requirements. As an alternative to the above recommendation, if the Commission does not want to eliminate the requirement that applicants must follow the Commission's procurement rules, we then make this alternative *Recommended change*.

- *Recommended change:* Purchases of E-Rate eligible services and equipment of less than $10,000 (pre-discount) be exempt from Commission bidding requirements but be subject to current library and school bidding requirements.
- *Rationale for change*: In comments that ALA filed with the Commission in 2023 in response to the *FNPRM* referenced above, we noted that 69.6% of libraries requested less than $10,000 for both Category 1 and Category 2 services in funding year 2023.[7] Adopting this suggestion means that many libraries—especially smaller libraries, tribal libraries, and those in rural areas—will be able to participate in the E-Rate program without needing to be knowledgeable about the program's complex application and bidding process. And it is important to note that applicants in the Rural Health Care Program seeking support of less than $10,000 are exempt from the Commission's competitive bidding requirements (CFR 54.622(i)(5)). We simply ask that our libraries and schools have this same exemption.

Current rule: 47 CFR § 54.504(d). Service substitution. The regulations define what procedures applicants must follow when they need to change services during an E-Rate funding year.

- *Recommended change:* Remove this CFR language and allow applicants to make service substitutions, when changes are from the same provider. Any change would not increase the applicant's previously approved E-Rate funding.
- *Rationale for change:* The current regulations are too restrictive and often do not consider local conditions and circumstances. For example, applicants may need an increase in bandwidth during the funding year, or they need to replace a non-functioning router.

Current rule: 47 CFR § 54.507. Category 2 (C2) funding cap. Regulations in this section require bidding on an annual basis as part of the application and funding process.

- *Recommended change:* For Category 2, remove the need for an annual, fixed application deadline. Because applicants have their own five-year C2 fund allocation, we think not having a C2 application deadline based on the current, fixed date for all applicants nationwide is necessary or helpful to applicants. The alternative we propose is to have a "rolling" application deadline.

[7] Comments of the American Library Association, CC Docket No. 02-6. Pages 5-6. Filed September 25, 2023. Also supported by comments from the State E-rate Coordinators' Alliance (SECA), p. 31. Filed September 25, 2023; and comments by the School Health & Libraries Broadband (SHLB) Coalition, p. 9. Filed September 25, 2023.

With a rolling deadline applicants will be able to apply for C2 funds at any time in the five-year C2 funding cycle until all their C2 funds are committed.[8] For example, if network equipment fails in the middle of the E-Rate funding year, it will be very helpful for applicants to immediately apply for C2 funds to offset replacement costs. Another benefit is that not having a single application deadline will reduce the number of applications submitted by the traditional late March deadline. Fewer applications by this deadline will reduce pressure on USAC's Program Integrity Assurance (PIA) unit to review all applications as fast as possible.

- *Rationale for change:* A five-year C2 fund allocation makes it possible for the Commission to implement a rolling Category 2 application deadline. Such a deadline will add flexibility to the program for applicants and help USAC's PIA unit to better manage the application review process.

Current rule: 47 CFR § 54.520(c)(1). Children's Internet Protection Act (CIPA) certifications. Regulations in this section require the completion of Form 486 to affirm compliance with CIPA. This form is also used to notify USAC that services have started.

- *Recommended change:* We recommend eliminating this form. A statement on CIPA compliance and the start date of E-Rate supported services can be added to Form 471.[9]
- *Rationale for change:* Eliminating this form will benefit applicants by removing another cause of funding denials and it will be another step towards program simplification.

Current rule: 47 CFR § 54.505. Discounts. This section of the regulations defines the method by which schools collect student enrollment numbers and the number of students eligible for free and reduced-price lunch under the national school lunch program. The lunch eligibility number is then used to calculate the applicant's E-Rate discount. The FCC now requires this information to be collected annually.

- *Recommended change*: Collect student enrollment and lunch data only once every five years and thus have a five-year discount. The five-year discount would be coterminous with the five-year Category 2 budget cycle.[10]
- *Rationale for change:* Each year school staff and State E-rate Coordinators spend many hours compiling enrollment and free/reduced lunch data. Analysis by E-rate Central found that over

[8] Comments of the American Library Association, CC Docket No. 02-6. Pages 4-5. Filed September 25, 2023. Also supported by comments from SHLB, p. 14. Filed September, 25, 2023.
[9] In the FNPRM the FCC itself supports this, ¶¶ 60-67. SECA also supports this in its FNPRM comments, p. 41. Filed September 25, 2023.
[10] SECA FNPRM comments, p. 10. Filed September 25, 2023.

> 75% of applicants have the same discount percentage from FY 2019 to FY 2023.[11] A five-year discount cycle will save considerable time by applicants, State Coordinators and reduce the numerous questions that PIA now ask applicants about these data. A five-year cycle will also benefit libraries which sometimes have problems getting timely enrollment and lunch data from their local school district. It will also be beneficial to consortium applicants who need to collect data from scores or even hundreds of school districts. Having to do this every year within a limited time is often very challenging.[12]

In conclusion, we appreciate the opportunity to make these comments on how to simplify and streamline the E-Rate program and we hope the Commission will implement our suggestions.

Respectfully submitted,

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[11] SECA FNPRM reply comments. p. 10-11. Filed October 23, 2023.
[12] ALA FNPRM comments, p. 8. Filed September 25, 2023.